

REMARKS

By this amendment, Applicant has amended claims 4, 10, and 13. As a result, claims 1, 3-6, 9-10, 12-15, and 17-25 remain pending in this application. Applicant respectfully requests entry of these amendments since they place the application in better form for appeal. Reconsideration in view of the following remarks is respectfully requested.

In the Final Office Action, the Office rejects claims 13-17 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. In particular, the Office alleges that claims 13-17 are system claims directed to software alone. By this response, Applicants have amended claim 13 to expressly state that the system is a computer system, which inherently includes computer hardware (e.g., at least one computer, such as computer 12 of FIG. 1). As a result, Applicant respectfully requests withdrawal of the rejections of claim 13 and claims 14-17, which depend therefrom, as being directed to non-statutory subject matter.

Further, the Office rejects claims 4 and 10 under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. By this response, Applicants have amended claims 4 and 10 to clearly denote that the requester is the same requester as interpreted by the Office. As a result, Applicant respectfully requests withdrawal of the rejections of claims 4 and 10 as being indefinite.

Further, the Office rejects claims 1, 3-6, 9-10, 12-15, and 17-25 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2004/0215594 (Somogyi) in view of Applicant Admitted Prior Art (AAPA). Applicant respectfully traverses this holding and requests reconsideration thereof in view of the following remarks.

For example, with respect to claim 1, Applicant respectfully submits that the Office fails to show that the combination of Somogyi and AAPA even if, *arguendo*, proper, teaches or

suggests requesting, after replying to a requester based on preparation responses, one of: a commitment or a roll back of each resource as in claim 1. In support of its rejection, the Office acknowledges that Somogyi fails to teach replying to a requester based on the preparation responses. Final Office Action, paragraph 10. Regardless, the Office alleges that Somogyi teach reporting results of an XA operation in paragraph 0027 and AAPA teaches providing a response to a requester once both resources have been successfully committed in paragraph 0005. *Id.* Applicant notes that both these reporting results and providing a response in Somogyi and AAPA expressly teach that these actions are taken after all resources have been committed/rolled back. In contrast, the invention of claim 1 requests commitment or roll back after replying to a requester.

Regardless, the Office acknowledges that the combination of Somogyi and AAPA fails to teach or suggest that the requesting commitment/roll back occurs after the replying as in claim 1. Final Office Action, paragraph 12. However, the Office takes official notice that it would have been obvious to

further modify the teaching of Somogyi and AAPA by changing the order of notification of operating status of a requested transaction to the requester before a commitment response depending on inventor's design preference since resources can subsequently be committed upon successful preparation of the resources as being disclosed in AAPA [AAPA, paragraphs 4-5].

Final Office Action, paragraph 13.

Initially, Applicant respectfully submits that the claimed feature is not properly classified as a "design preference" as alleged by the Office. Two patentably indistinguishable design preferences provide the same results. See, e.g., MPEP, 2144.04, IV. In claim 1, an advantage is provided by replying prior to requesting commitment/roll back rather than after the commitment/roll back is complete. For example, an amount of time that the requester must wait

for a reply is decreased. To this extent, the claimed change in order is not merely a “design preference”, which provides similar/identical functionality, but provides a tangible benefit to processing a transaction that requires multiple resources.

Further, Applicant submits that the facts noted by the Office are not common knowledge or well known in the art. To this extent, the Office’s reasoning for the official notice is not supported by its citations to the prior art. In particular, the Office cites AAPA in support of the replying, but AAPA expressly states that “[o]nce both resources have been successfully committed, the transaction manager provides a response to the requester.” AAPA, paragraph 0003. As a result, the cited art expressly teaches against the Office’s official notice.

Still further, the Office also cites AAPA, paragraphs 4-5 for a proposition that “resources can subsequently be committed upon successfully preparation of the resources”. Even if, *arguendo*, the proposition is supported by AAPA, paragraphs 4-5, such a proposition fails to provide support for the Office’s official notice that the claimed feature is merely a “design preference”. Additionally, Applicant notes that AAPA, paragraphs 4-5 do not include any support for the proposition that “resources can subsequently be committed upon successfully preparation of the resources”. In contrast, AAPA, paragraph 0004 only discusses the inefficiency of serially processing resources, while AAPA, paragraph 0005 discusses needs in the art, and not features of the prior art at all.

As a result, Applicant respectfully submits that the Office’s official notice that changing the order of the operations is merely a design choice is improper. To this extent, Applicant respectfully requests withdrawal of the rejection of claim 1 and claims 3-6 and 21-22, which depend therefrom, as allegedly being unpatentable over Somogyi in view of AAPA. In the alternative, Applicant respectfully requests that the Office: (a) provide some documentary

evidence that it would have been obvious to further modify the teaching[s] of Somogyi and AAPA by changing the order of notification of operating status of a requested transaction to the requester before a commitment response depending on inventor's design preference as alleged by the Office; (b) explain how AAPA, paragraphs 4-5 allegedly support the Office's statement that "resources can subsequently be committed upon successfully preparation of the resources"; and (c) explain how the alleged fact that "resources can subsequently be committed upon successfully preparation of the resources" provides support for modify the teachings of Somogyi and AAPA by changing the order of notification of operating status of a requested transaction to the requester before a commitment response.

Applicant notes that independent claims 9, 13, and 18 include a similar feature as discussed above with respect to claim 1. Further, the Office relies on its reasoning in rejecting claim 1 in its rejections of claims 9, 13, and 18. To this extent, Applicants incorporate the arguments presented above with respect to claim 1, and respectfully request withdrawal of the rejections of claims 9, 13, and 18 and the various claims that depend therefrom, as allegedly being unpatentable over Somogyi in view of AAPA.

With further respect to claim 25, Applicant notes that neither Somogyi nor AAPA teaches or suggests program code for starting a resource thread for a resource as in claim 25. The Office relies entirely on its rejection of claim 5, which in turn relies entirely on its rejection of claim 1 in support of this rejection. However, in rejecting claim 1, the Office does not cite any portion of Somogyi nor AAPA that allegedly teaches or suggests the claimed feature. Further, neither Somogyi nor AAPA teaches starting any type of thread. In contrast, Somogyi teaches "utilizing available server threads to process resources..." See, e.g., Somogyi, paragraphs 0010, 0020, 0023. As a result, Applicant again respectfully requests withdrawal of the rejection of claim 25

as allegedly being unpatentable over Somogyi in view of AAPA. In the alternative, Applicant respectfully requests that the Office provide additional explanation as to how Somogyi or AAPA allegedly teaches or suggests program code for starting a resource thread for a resource as in claim 25.

Applicant submits that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicant does not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicant does not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicant reserves the right to present such arguments in a later response should one be necessary and/or in a related patent application, either of which may seek to obtain protection for claims of a potentially broader scope.

In light of the above, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

/John LaBatt/

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